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T.R.A. DOCKET ROOM

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May 27, 2005

Via Hand Delivery

Pat Miller, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re In Re Citizens Telecommunications Company of Tennessee, LLC's d/b/a
Frontier Communications of Tennessee
Docket No 03-00211

Dear Chairman Miller

Enclosed for filing in the above-referenced proceeding are an original and fourteen copies of a Reply Brief of Citizens Telecommunications Company of Tennessee d/b/a Frontier Communications of Tennessee

Should you have any questions, please do not hesitate to call

Very truly yours,

STOKES BARTHOLOMEW
EVANS & PETREE P A.



Charles W. Cook, III

CWC/eu
Enclosures

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BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE:

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CITIZENS TELECOMMUNICATIONS)	
COMPANY OF TENNESSEE, LLC)	Docket No. 03-00211
PETITION FOR EXEMPTION UNDER)	
T.C.A. § 65-5-108(c),)	
(formerly T.C.A. § 65-5-208 (c)),)	

**REPLY BRIEF OF CITIZENS TELECOMMUNICATIONS COMPANY OF
TENNESSEE
D/B/A FRONTIER COMMUNICATIONS OF TENNESSEE**

Citizens Telecommunications Company of Tennessee LLC, d/b/a Frontier Communications of Tennessee ("Frontier") respectfully submits this reply brief in support of its petition for relief from the price floor imposed by T C A § 65-5-108(c)(formerly T C A § 65-5-208(c)) in the McMinnville and Sparta markets

The relief requested is appropriate because the current market conditions will not foster fair competition and will not result in lower prices for the customers in McMinnville and Sparta. Frontier's competitor and the opponent to the petition, Ben Lomand Communications ("BLC") has become the dominant carrier in these markets and continues to increase its market share.

The price floor was put in place to facilitate the entry of CLECs and create a neutral playing field for CLECs on which to compete with ILECs. See *BellSouth BSE, Inc v Tennessee Regulatory Authority*, 2003 WL 354466, **3 and 15 (Tenn Ct App 2003). However, as is evident from the testimony of Frontier's witness Mr. Swatts, Frontier no longer enjoys an incumbent advantage in McMinnville and Sparta, and the dominant carrier, BLC, enjoys the protections designed to protect a weaker competitor. As long as BLC is able to price only slightly below the prices charged by Frontier without the additional cost of preparing cost

studies, the customers in McMinnville and Sparta will not benefit from lower prices that will result from true competition.

In its brief, BLC argues that (a) competition by itself is not a sufficient public interest, (b) Frontier **will** continue to enjoy some intangible advantage and either cross subsidize or unfairly price its services, (c) that Frontier's current rates are below the price floor already, and (d) the TRA should adjudicate this matter through a more lengthy rule making procedure. For the

No. 03-00211), citing T C A § 65-5-108(b)(2004). Likewise, the Court of Appeals has already

relation to the costs incurred by BLC. Logically, such a situation allows BLC to price its

services slightly below Frontier's without any incentive to offer lower prices. Thus, the customers in McMinnville and Sparta ultimately suffer because they cannot benefit from free competition. Accordingly, relief from the price floor is not only consistent with the intent of the legislature but it will also serve the public's interest of having access to lower prices.

B. BLC's Speculation Regarding What Frontier Might Do Is Unfounded.

When the TRA considers the effect on competition it must "base its decisions on substantial and material evidence and that those decisions not be arbitrary or capricious" *BellSouth BSE*, 2003 WL 354466 at *11. When faced with mere possibilities of anti-competitive conduct, the TRA's "responsibility in that situation is to put in place standards or requirements to prohibit and prevent the anticompetitive possibilities from becoming realities and/or to make violations easier to discover so that regulation is effective." *Id.* at *17.

In response to Frontier's petition, BLC merely suggests that Frontier will engage in predatory pricing or unfair cross subsidization. This type of argument is purely speculative and without basis in fact. Frontier will continue to be regulated by the TRA, and it will submit tariffs for its offerings, just as BLC is required to do. There is no suggestion that the TRA cannot effectively regulate Frontier just as it regulates CLECs such as BLC, which are also prohibited from engaging in predatory and anti-competitive practices. Although Frontier may be affiliated with a larger entity, there are CLECs who are also part of larger corporate

dominant carrier

CONCLUSION

For the reasons stated herein and in Frontier's initial brief, the TRA should award Frontier the relief requested in its Petition

Respectfully submitted,



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CERTIFICATE OF SERVICE

postage prepaid on this the 27th day of May, 2005

H LaDon Baltimore
Farrar & Bates, LLP

A handwritten signature in cursive script, appearing to read 'Charles W. Cook, III', written over a horizontal line.

Charles W Cook, III